



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

June 8, 2009

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Anthony Palladino**
Tax Registry No. 907424
120th Precinct
Disciplinary Case No. 83461/07

The above named member of the service appeared before Assistant Deputy Commissioner Claudia Daniels-DePeyster on October 8, 2008 and was charged with the following:

DISCIPLINARY CASE NO. 83461/07

1. Said Police Officer Anthony Palladino, while assigned to the 120 Precinct, while off-duty, on or about and between January 1, 2000 and March 3, 2007, did on several occasions wrongfully and without just cause engage in off-duty employment without authority or permission to do so, in that said officer did work as a DJ without obtaining an approved Off-Duty Employment application.

PG 205-40, PAGES 1 AND 2 PARAGRAPH 1 AND 2

**OFF DUTY
EMPLOYMENT**

In a Memorandum dated February 19, 2009, Assistant Deputy Commissioner Daniels-DePeyster accepted Respondent Palladino's PLEADING GUILTY to the sole Specification. Having read the Memorandum and analyzed the facts of this instant matter, I approve the finding, but disapprove the recommended penalty.

Respondent Palladino engaged in unauthorized off-duty employment for an extended period of years. His assertions of being unaware of the Department's rules and procedures regarding off-duty employment are not persuasive, especially given his tenure. Therefore, the disciplinary penalty for this matter shall consist of the Respondent's forfeiture of fifteen (15) Vacation days.


Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

February 19, 2009

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Anthony Palladino
Tax Registry 907424
120 Precinct
Disciplinary Case No. 83461/07

The above-named member of the Department appeared before me on October 8, 2008, charged with the following:

1. Said Police Officer Anthony Palladino, while assigned to the 120 Precinct, while off-duty, on or about and between January 1, 2000 and March 3, 2007, did on several occasions wrongfully and without just cause engage in off-duty employment without authority or permission to do so, in that said officer did work as a DJ without obtaining an approved Off-Duty Employment application.

PG 205-40 – PAGES 1 AND 2 – PARAGRAPH 1 AND 2 – OFF DUTY
EMPLOYMENT

The Department was represented by Katie O'Connor, Esq., Department Advocate's Office, and the Respondent was represented by Michael Martinez, Esq.

The Respondent, through his counsel, entered a plea of Guilty to the subject charge. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent, having pleaded Guilty, is found Guilty as charged.

COURTESY • PROFESSIONALISM • RESPECT

EVIDENCE IN MITIGATION

The Respondent is a 14-and-a-half-year member of the Department assigned to the 120 Precinct. He testified that he has been assigned to that command since graduating from the Police Academy. For the past year he has been assigned to work with a juvenile interaction program. He explained that he works with youths that have been locked up for robberies, burglaries and firearm possession. He visits them at their home and speaks to them and their parents. Before that he worked for seven years in a pilot program geared at tracking people on probation. The Respondent said he would do home visits, verification and pick up people on warrants if necessary.

During the course of his career, the Respondent said that he made approximately 320 arrests including 150 warrant returns and 170 felony arrests. He stated that he is currently on full duty status, has never been on Modified Assignment or had his gun taken away. He said that aside from this one charge, he has never had any prior, formal discipline. He explained that 12 years ago, he did receive one admonishment. The Respondent said that he has not been sick in nine years.

With respect to the pending charge, the Respondent acknowledged that between 2000 and 2007 he worked as a disc jockey (DJ). He explained that he would play at Sweet 16 parties or block parties maybe ten times a year. Of the ten parties, he would be paid for approximately five of the parties. He stated that he had a partner who was his brother. The Respondent said that he did not advertise that he was a DJ. People would spread the word and he would receive calls. He estimated that he would play at a party for four hours and receive \$400.00 which he would split with his brother. He estimated that he made \$1000.00 a year.

The Respondent stated that he never had or applied for off-duty employment with the Department. He explained that the first time he learned that he should have submitted paperwork to the Department to work as a DJ was when he was called in for his Official Department Interview. He stated that he learned that he was supposed to submit paperwork to the Department before he could work. The Respondent further explained that he thought off-duty employment meant that he had to work 20 hours a week to apply for off-duty employment. Once he had the interview, the Respondent said that he submitted paperwork to the Department to work off-duty as a DJ and his paperwork was approved. The Respondent testified that he still works the same amount of time which is approximately four parties a year.

During cross-examination, the Respondent acknowledged that he had partners while working for the Police Department, but he never discussed the rules concerning off-duty employment with them. The Respondent admitted that some of the police officers whom he worked with in probation had second jobs, but he never discussed off-duty employment with them or his Police Benevolent Association delegate either. The Respondent stated that he did read the Personnel Orders that are issued by the Department, but he did not recall ever reading about a police officer who received discipline for unauthorized off-duty employment.

The Respondent testified that he did work as a DJ at Police Department events. He explained that when his former Commanding Officer retired, he played the music at his retirement party and received "a couple dollars" for playing. He said that no one questioned him about whether he had authorization to work off-duty. The Respondent explained that he really thought one had to be working 20 hours a week to request off-

duty employment, and he got this information over 14 years ago when he studied the Patrol Guide while in the Police Academy. The Respondent acknowledged that following his Official Department Interview in March 2007, he submitted an off-duty employment application to the Department and is currently authorized to work off-duty.

Upon questioning by the Court, it was agreed that the Respondent was rated a "10" out of "10" with regard to his ability and effectiveness by his Commanding Officer.

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974). The Respondent was appointed to the Department on March 3, 1994. Information from his personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

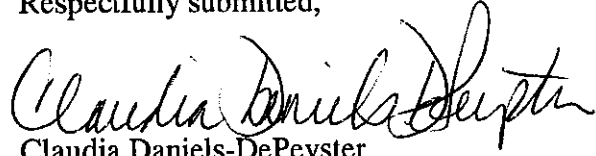
The Respondent has pleaded Guilty to working as a DJ without obtaining an approved off-duty employment application from the Department during the period, January 1, 2000 to March 3, 2007. The Respondent admitted that during the seven-year period, he worked as a paid DJ four or five times a year each year earning approximately \$1,000 a year. He stated that he never worked off-duty employment aside from the DJ jobs and was under a false impression that he had to work at least 20 hours a week before seeking permission from the Department to work off-duty. The Respondent testified credibly that it was not until his Official Department Interview that he learned that his impression he carried since leaving the Police Academy some 13 years earlier was mistaken. He stated that once he learned the correct information, he immediately applied

for off-duty employment and was approved by the Department to work as a DJ. He also stated that he has a current off-duty employment application filed with the Department.

While ignorance of the rule of law is not a defense in this forum, mitigating circumstances are. For one, the Respondent did not work an inordinate amount of hours during the period charged. He estimated doing four parties a year at four hours each for a total of 16 work hours a year. Secondly, upon learning that he needed to file for permission to work off-duty employment, the Respondent immediately filed for permission. Since March of 2007, the Respondent was approved and currently has authorization from the Department to work off-duty as a DJ. While the Respondent was willing to plead Guilty to his misconduct, he felt that the penalty recommended by the Assistant Department Advocate was harsh. The Respondent has no prior, formal disciplinary record. The Assistant Department Advocate recommended a penalty of twenty vacation days. The Respondent's attorney advocated for a penalty less than that. In Disciplinary Case No. 81852/06, a four-year member of the Department with no prior disciplinary record, having pleaded Guilty, forfeited ten vacation days for engaging in unauthorized off-duty employment as a disc jockey.

Accordingly, in consideration of the Respondent's service and sick leave record, coupled with the Respondent's action to rectify the situation in 2007, the Court recommends that he forfeit ten vacation days.

Respectfully submitted,


Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials

